IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL SIDE JURISDICTION

WRIT PETITION (L)NO.1671 OF 2007

Sanjay Ashok Coop Hsg Scy Ltd Petitioner.

Vs

The Commissioner
Mun Corpn of Gr Mumbaiand ors ..Respondents

Mr G.D.Uttangale for the petitioner
Mrs P.A Purandhare for respondent BMC.

CORAM: SWATANTER KUMAR, C.J., &
Dr.D.Y.CHANDRACHUD, J.
Dated: 9th August 2007

P.C.:

The primary challenge in this petition is to the bills raised by the Corporation claiming Rs. 1,01,244/- on account water consumption charges. The contention raised on behalf of the petitioner is that the petitioner was neither given an opportunity of hearing nor had occasion to explain the Corporation that that the meters were defective and, therefore the demand is defective, unjustified and violative of the principles of natural justice.

The learned counsel for the Corporation is unable to show that the petitioner was granted any opportunity of hearing or to put forth

his case before raising the demands.

To us, it appears to be a clear violation of principles of natural justice, but at the same time, the fact cannot be disputed that the water has been consumed by the petitioner. The quantum of consumption of water and the charges payable is a matter of computation, which is impermissible under Article 226 of the Constitution of India. Thus we dispose of this petition with a direction to the Municipal Corporation to grant opportunity to the petitioner and after hearing him pass appropriate order, raising appropriate demand in accordance with law within a period of six weeks from today. The petitioner would be entitled to the restoration of the water supply, provided he pays a sum of Rs.25,000/- to the Corporation within a period of one week from today and thereafter pays the amount determined by the respondents in accordance with law. Upon payment of Rs.25,000/- the water supply shall be restored to the petition.

Petition is disposed of with the above directions, leaving the parties to bear their own costs.

CHIEF JUSTICE

Dr. D.Y.CHANDRACHUD, J.